

## Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 EA-07 ISO-00 DODE-00 NSAE-00 TRSE-00

ERDA-05 CIAE-00 COME-00 /032 W

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC PRIORITY 2610

INFO AUSOECN PARIS PRIORITY 3625

C O N F I D E N T I A L TOKYO 11554

E.O. 11652 GDS

TAGS: ESTC, COCOM, JA, CH

SUBJECT: JAPANESE URGENCY COCOM EXCEPTION CASES

REFS: A. STATE 194591; B. STATE 194209

1. EMBOFF MET WITH REPRESENTATIVES OF FONOFF AND MITI WHO BASICALLY CITED SAME REASONS AS THOSE CONTAINED IN REF B FOR JAPANESE REQUEST FOR URGENCY COCOM EXCEPTIONS. ELABORATING, OFFICIALS SAID THAT SHOULD KOKUBOSOKU DECIDE TO TAKE CASE TO COURT AGAIN, GOJ'S PARTICIPATION IN COCOM ITSELF MAY BE THREATENED GIVEN GENERAL ATMOSPHERE IN TOKYO HOSTILE TO CONTINUING ANY RESTRICTIONS ON CHINA TRADE NOW THAT RELATIONS HAVE BEEN NORMALIZED. JAPAN HAS NO LEGISLATION SPECIFICALLY AUTHORIZING GOJ TO EXERCISE COCOM CONTROLS; RATHER CONTROL IS EFFECTED UNDER AUTHORITIES GRANTED BY FOREIGN TRADE AND OTHER LAWS. AT LEAST ONE LOWER COURT HAS HELD THAT THESE CONTROLS MUST RELATE TO "PURIFY ECONOMIC" OBJECTIVES AND NOT TO POLITICAL OBJECTIVES. THE GOJ HAS HELD THAT COCOM SERVES JAPAN'S NATIONAL ECONOMIC INTERESTS IN THE BROADEST SENSE, BUT HAS LITTLE CONFIDENCE THAT ITS INTERPRETATION COULD STAND UP UNDER A CONCERTED LEGAL ATTACK IN THE COURTS BACKED BY AN OPPOSITION PARTY LED ATTEMPT TO DISCREDIT THE GOJ IN THE DIET.

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2. ACCORDING TO GOJ OFFICIALS, A U.S. FORMAL OBJECTION

TO ANY OF THE ITEMS UNDER CONSIDERATION COULD WELL  
TRIGGER KOKUBOSOKU ACTION. THEREFORE, ALL THE  
LISTED ITEMS ARE EQUALLY SENSITIVE TO THE GOJ. IN THE  
PAST, HOWEVER, KOKOUBOSKU HAS SHOWN "UNDERSTANDING"  
WHEN GOJ HAS EXPLAINED THAT CERTAIN ITEMS POSE  
PARTICULAR DIFFICULTY AND ARE UNDER REVIEW BY THE

U.S. THEREFORE GOJ WOULD LIKE TO HAVE THE U.S. GIVE  
FAVORABLE RESPONSES BY SEPTEMBER 18, EXPIRATION  
DATE OF KOKUBOSOKU'S EXPORT LICENSE AND TAKE A  
RESERVED POSITION ON THOSE ITEMS IT FINDS MOST TROUBLE-  
SOME, AT LEAST UNTIL THE END OF THE YEAR. UNDER THESE  
CONDITIONS, THE GOJ WILL HAVE TO EXTEND THE EXPORT  
LICENSE FOR THREE MONTHS, BUT AT LEAST THE STORM  
WILL HAVE BEEN AVOIDED, JAPAN'S ADHERENCE TO COCOM  
WILL REMAIN INTACT, AND THE GOODS WILL STILL BE IN  
COUNTRY.

3. COMMENT. EMBASSY REGARDS DANGERS CITED BY GOJ  
AS REASONABLE. ALTHOUGH SUBSTANTIAL FOR COCOM-  
TYPE CONTROLS CONTINUES IN THE LDP CONSERVATIVE WING, WE  
BELIEVE THOSE WHO FAVOR ENDING CONTROLS ON EXPORTS TO CHINA  
NOW CONSTITUTE A MAJORITY WITHIN THE PARTY.  
WE WOULD THEREFORE CONCUR IN GOJ TACTICAL SUGGESTIONS  
AS BEST MEANS TO PRESERVE JAPAN'S ADHERENCE TO COCOM.  
HODGSON

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